REMARKS

Claims 1-3, 5-7, 19-23, 25, 31-36, 38-42, and 44-66 stand finally rejected as being anticipated by Takahashi. Additionally, claims 4, 8, 37, 43, and 17-18 stand finally rejected as being obvious over Takahashi in view of either Kayanuma, Pagliuso, or Bulland. However, in Takahashi does not qualify as valid prior art.

Specifically, Takahashi was filed in the U.S. on June 24, 2003, which as the Examiner admits, is the §102(e) date for Takahashi. In Applicant's last response, Applicant submitted a § 1.131 declaration and accompanying Exhibits showing that the inventor of the present application conceived of the invention not later than March 12, 2003. This date is well before the Takahashi application was filed in the U.S. The inventor then pursued with due diligence filing an application covering the subject matter, which constitutes constructive reduction to practice. The Examiner, however, asserts that Applicant had not shown diligence from prior to June 24, 2008, and therefore, refused to withdraw Takahashi as valid prior art.

As shown in the accompanying §1.131 declaration and accompanying exhibits, however, the assignee of the present invention mandates a formal review process for all invention disclosures prior to requesting that outside counsel prepare and file an application. The employees that perform the formal internal review process, however, are engaged primarily with other aspects of the day-to-day business of the company. That is, they have their primary job functions to perform. Because the employees review invention disclosures while still performing their daily duties, as well as the fact that there are multiple invention disclosures that require review, the formal review process takes about three-four months from the time a disclosure is submitted until the request to file letter is prepared and sent to outside counsel. This is not an unreasonable amount of time for a company such as Sony Ericsson to receive an invention disclosure from an employee, and have other employees evaluate the invention for its technical and business merits.

Respectfully, as evidenced by the §1.131 declaration, Applicant did pursue the present application with diligence from prior to June 24, 2003. Accordingly, Takahashi does not qualify as prior art, and any rejections based on Takahashi must be withdrawn.

In light of the foregoing remarks, Applicant respectfully requests reconsideration and allowance of all pending claims.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.

Dated: January 13, 2009

Stephen A. Herrera
Registration No.: 47,642

1400 Crescent Green, Suite 300
Cary, NC 27518

Telephone: (919) 854-1844
Facsimile: (919) 854-2084